



06-24-04

2642

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

EDWARDS et al.

Serial No.: 09/247,893

Filed: February 10, 1999

Atty. File No.: 4366-33

For: "DYNAMICALLY ALLOCATING
SERVER RESOURCES TO
COMPETING CLASSES OF WORK
BASED UPON ACHIEVEMENT OF
SERVICE GOALS"

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Group Art Unit: 2642

Examiner: WILLIAM J. DEANE, JR.

SECOND INFORMATION
DISCLOSURE STATEMENT

"EXPRESS MAIL" MAILING LABEL NUMBER: EV 368038824US
DATE OF DEPOSIT: June 22, 2004

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE
"EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE
UNDER 37 C.F.R. 1.10 ON THE DATE INDICATED ABOVE AND IS
ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX
1450, ALEXANDRIA, VA 22313-1450.

TYPED OR PRINTED NAME: Barbara Tyndall

SIGNATURE: **RECEIVED**

JUN 28 2004

Technology Center 2600

Dear Sir:

The references cited on attached Form PTO-1449 are being called to the attention of the Examiner.

☒ Copies of the cited non-patent and/or foreign references are enclosed herewith.☐ Copies of the cited U.S. patents/patent application publications are not enclosed in

accordance with the waiver dated July 11, 2003, whereby patent applications filed after June 30, 2003 and
international applications that have entered the national stage under 35 U.S.C. § 371 after June 30, 2003 need
not submit copies of U.S. patents and U.S. patent application publications.

☐ Copies of the cited references are not enclosed, in accordance with 37 C.F.R. 1.98(d),
because the references were submitted to the U.S. Patent and Trademark Office in prior application Serial No.
_____ filed _____, which is relied upon for an earlier filing date under 35 U.S.C. §
120.

☐ To the best of applicants' belief, the pertinence of the foreign-language references are
believed to be summarized in the attached English abstracts and in the figures, although applicants do not
necessarily vouch for the accuracy of the translation.

☐ Examiner's attention is drawn to the following co-pending applications, copies of which have
been or are being submitted:

Serial No. _____ filed _____

Serial No. _____ filed _____

☒ Other: Examiner's Office Letter mailed April 2004 in counterpart Japanese application No.

2000-34267

Submission of the above information is not intended as an admission that any item is citable under the statutes or rules to support a rejection, that any item disclosed represents analogous art, or that those skilled in the art would refer to or recognize the pertinence of any reference without the benefit of hindsight, nor should an inference be drawn as to the pertinence of the references based on the order in which they are presented. Submission of this statement should not be taken as an indication that a search has been conducted, or that no better art exists.

It is respectfully requested that the cited information be expressly considered during the prosecution of this application and the references made of record therein.

FEES

<input checked="" type="checkbox"/>	<p>37 CFR 1.97(b): No fee is believed due in connection with this submission, because the information disclosure statement submitted herewith is satisfies one of the following conditions ("X" indicates satisfaction):</p> <ul style="list-style-type: none"><input type="checkbox"/> Within three months of the filing date of a national application other than a continued prosecution application under 37 CFR 1.53(d), or<input type="checkbox"/> Within three months of the date of entry into the national stage of an international application as set forth in 37 CFR 1.491 or<input checked="" type="checkbox"/> Before the mailing date of a first Office Action on the merits, or<input type="checkbox"/> Before the mailing of a first Office action after the filing of a request for continued examination under 37 CFR 1.114. <p>Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970.</p>
<input type="checkbox"/>	<p>37 CFR 1.97(c): The information disclosure statement transmitted herewith is being filed after all the above conditions (37 CFR 1.97(b)), but before the mailing date of one of the following conditions:</p> <ul style="list-style-type: none">(1) a final action under 37 C.F.R. 1.113 or(2) a notice of allowance under 37 C.F.R. 1.311, or(3) an action that otherwise closes prosecution in the application. <p>This Information Disclosure Statement is accompanied by:</p> <ul style="list-style-type: none"><input type="checkbox"/> A Certification (below) as specified by 37 C.F.R. 1.97(e). Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970. <p style="text-align: center;">OR</p> <ul style="list-style-type: none"><input type="checkbox"/> Please charge Deposit Account 19-1970 in the amount of \$180.00 for the fee set forth in 37 C.F.R. 1.17(p) for submission of an information disclosure statement. Please credit any overpayment or charge any underpayment to Deposit Account 19-1970.

<input type="checkbox"/>	<p>37 CFR 1.97(d): This Information Disclosure Statement is being submitted after the period specified in 37 CFR 1.97(c).</p> <p><input type="checkbox"/> This information Disclosure Statement includes a Certification (below) as specified by 37 C.F.R. 1.97(e)</p> <p style="text-align: center;">AND</p> <p><input type="checkbox"/> Applicants hereby requests consideration of the reference(s) disclosed herein. Please charge Deposit Account 19-1970 in the amount of \$180.00 under 37 C.F.R. 1.17(p). Please credit any overpayment or charge any underpayment to Deposit Account 19-1970. Election to pay the fee should not be taken as an indication that applicant(s) cannot execute a certification.</p>
--------------------------	--

Certification (37 C.F.R. 1.97(e))
(Applicable only if checked)

☐ The undersigned certifies that:

☐ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(1).

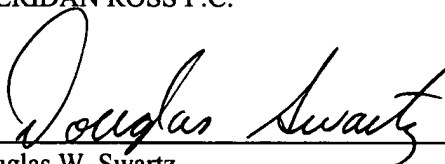
☐ A copy of the communication from the foreign patent office is enclosed.

OR

☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. 1.56(c) more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(2).

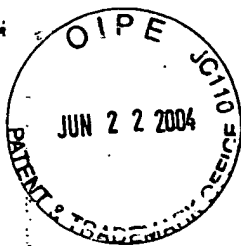
Respectfully submitted,

SHERIDAN ROSS P.C.

By: 
Douglas W. Swartz

Registration No. 37,739
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: June 22, 2004



EXAMINER'S OFFICE LETTER

APR 13 2004
(Mailing Date: APR 19 2004)

To: Applicant (Lucent Technologies Inc.)

Examiner : M. TONOKAWA

"METHOD FOR DECIDING WHETHER SERVER SHOULD BE
ASSIGNED TO SERVER LOOP SET TO WORK TYPE IN WORK
PROCESSING FACILITY"

RECEIVED

Patent Application No. 2000-34267

JUN 28 2004

Technology Center 2600

The above-identified application is to be refused for the reason as put
down. A reply to the present office action must be filed by JUL 19 2004
(three-month extensible).

= NOTE =

[Reason 1] Claims 1-10 are rejected under Article 36,
Paragraph 6, Item 2 of the Patent Law as being indefinite.

(1) Claims 1-10

The claim wording "server" is construed to include both of "human" and
"computing resource, such as a computer or program module, etc." from
the description on page 1, lines 7-15. In each claim, it is not clear
which is indicated by the claim wording "server." The "server" as a
technical term is normally used to indicate a computer providing
particular processing, working process, or the like. Thus, it is requested
to use another term as the meaning of "human."

(2) Claims 1 and 6

The concrete structure of the "server pool" is not clear. It is not clear
what is technically indicated by the server pool.

It is not clear what is indicated by the phrase "an indication of servers that process work of the work type." A correspondence is also not clear between the phrase and the illustrated embodiment of the specification.

Regarding "a composite preference value," the composite preference value is set for each server in the specification. Thus, for example, the phrase "a composite preference value for the work type" should be changed to "a composite preference value of the server for the work type."

(3) Claims 2 and 7

It is not clear how the dynamic preference value is determined for the work type concretely, even if the specification is considered.

It is not clear what is technically indicated by "a measurement of the work processing facility's need to have servers perform work of the work type."

It is not clear what preference value is indicated by the "server's determined preference value."

It is not clear what is technically indicated by the "user."

A relationship is not clear between the "composite preference value function" and the "preference value function."

(4) Claims 5 and 10

Regarding the recitation "a composite preference value is determined ... that work type," the technical meaning is not clear relating to the determination of the composite preference value for each of the plurality of work types when the first value is less than the second value. In addition, a correspondence is not clear between the recitation and the illustrated embodiment of the specification.

(5) Claims 3-5

Each "step" of claims 3-5 is not recited time-sequentially with respect to each step of claim 1, so that the inventions of the recited method are not clear. For example, it is not clear to which step of claim 1 the step of "re-determining the composite preference value for the work type" is performed.

(6) Claims 6-10

A correspondence is not clear between each "means" of claims 6-10 and each element of the illustrated embodiment, so that the concrete structure of each "means" cannot be grasped. Thus, the entire structure of the "system" is not clear.

[Reason 2] The specification is rejected under Article 36, Paragraph 4 of the Patent Law as being indefinite for lack of an enabling requirement.

(1) It is recognized that the wording "server's first value for the work type" and "server's second value for the work type" each correspond to the "preference value" and "threshold value" of the illustrated embodiment. The definitions of the "preference value" and "threshold value" are only described on page 5, line 26 to page 6, line 9. If one of ordinary skill in the art would perform the invention of claim 1, he would have to set the "preference value" and the "threshold value." However, it is not clear how an affinity for different work types and a reluctance to perform work of the work type are determined to set the preference value and the threshold value, in the illustrated embodiment. This is not obvious to one of ordinary skill in the art. This can be applied to claim 6.

(2) Claim 2 recites "determining a dynamic preference value for the work type." In this connection, the specification only discloses the determination of the "dynamic preference value" on page 6, lines 13-16. From this description, it is not clear how the dynamic preference value is calculated based on the various input. This can be applied to claim 7.

(3) The wording "composite preference value function (preference value function)" of claim 2 is a "user-selectable" one on determining the composite preference value. In this connection, there is only a description on page 21, line 28 to page 22, line 6. However, the specification does not disclose anything as to when and how the composite preference value is selected on determining the composite preference value. This can be applied to claim 7.

Thus, the specification is not described clearly and fully so that one of ordinary skill in the art could not perform the inventions of claims 1, 2, 6 and 7.

[Reason 3] The inventions of claims 1-10 are rejected under Article 29, main Paragraph of the Patent Law as being not an invention of Article 2 of the Patent Law.

(1) Claims 1-5

Claims 1-5 simply recite an artificial rule for assigning a server to a work item as an invention of a method.

Thus, since the inventions of claims 1-5 are simply the artificial rule, it is not recognized that the inventions are of technical idea in which a law of nature is used.

(2) Claims 1-10

As discussed in the above Reason 1, since the "server" can be construed to be a computing resource, the inventions of claims 1-10 can be a software related invention. In this case, since only the server can be recognized to be a hardware resource, it is not clear how the present invention implements information processing to the "first value," the "second value," and the "composite preference value," etc., using the hardware resource. In other words, it is not clear how the hardware resource is operated in cooperation with a software to perform the information processing. Thus, the inventions of claims 1-10 are not

recognized to be an invention of technical idea in which a law of nature is used.

On filing an Amendment, please be careful so as not to introduce a new matter.

[Reason 4] The inventions of claims 1-10 are rejected under Article 29, Paragraph 2 of the Patent Law as being obvious from listed References 1-3.

.....
= LIST OF PRIOR ART REFERENCES =

Reference 1: EP Publication No.855826

Reference 2: U.S. Patent Gazette 5,825,869

Reference 3: EP Publication No.740450 (JP Laid-open Gazette No.8-321885)

The following additional References a-c are the search results of IPC G06F 15/16-15/177, 9/46 and are listed only for the purpose of noticing the Applicant to consider related arts. The novelty/inventive step for the claims presently on file does not appear to be denied by these related arts. (Each copy of References a-c is not attached because of the reduction of copy cost.)

Reference a: JP Laid-open Gazette No.6-259386

Reference b: JP Laid-open Gazette No.8-137910

Reference c: JP Laid-open Gazette No.6-28323